



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MAP-174827

PRELIMINARY RECITALS

Pursuant to a petition filed June 3, 2016, Wis. Stat., §49.45(5), to review a decision by the Jefferson County Dept. of Human Services regarding Medical Assistance (MA), a hearing was held on July 20, 2016, by telephone.

The issue for determination is whether Medicaid Purchase Plan (MAPP) premiums can be refunded to petitioner when his Medicare Part B premiums were taken retroactively from his social security.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Jefferson County Dept. of Human Services
874 Collins Rd.
Jefferson, WI 53549

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Jefferson County.

2. Petitioner received MA under the MAPP program and also Medicare Premium assistance under the Special Low-Income Medicare Beneficiary (SLMB) program. Petitioner had a review due by the end of February, 2016, and the cases closed because the review was not completed by the end of the month.
3. The review was completed March 1. Petitioner's income was \$1,092 social security along with bi-weekly employment income of \$227.60. The total monthly income caused petitioner to be ineligible for SLMB and left him with a \$75 monthly MAPP premium.
4. Petitioner paid the MAPP premiums for March through May, 2016.
5. Petitioner's May, 2016 social security check was reduced to \$747 because Medicare Part B premiums for March through May were deducted. The change was noted by the worker on May 16. Then, because of the payment of the Medicare Part B premium, petitioner no longer was required to pay a MAPP premium for June.
6. Petitioner requested that the Department refund the MAPP premiums for March through May because his income was less, retroactively. The county responded that it could not refund the premiums.

DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for MA. Wis. Stat., §49.472; MA Handbook, Appendix 26.1. If net income is below 250% of the federal poverty level, the person is eligible for the program. Wis. Admin. Code, §DHS 103.03(8)(b); Handbook, App. 26.4.2. 250% of the poverty level is \$2,475. Handbook, App. 39.5. Petitioner's income is well below that level.

If gross income is above 150% of the federal poverty level, the person is required to pay a monthly premium to receive MAPP benefits. Wis. Admin. Code, §DHS 103.087(1)(b); MA Handbook, App. 26.5.1. 150% of the poverty level for one person is \$1,485. Handbook, App. 39.5. Petitioner's gross income of \$1,547.20 per month was over that limit when the review was completed and thus petitioner was required to pay a MAPP premium.

The issue before me is whether I can look back and reverse the premium payments based upon the current knowledge that petitioner's social security was reduced retroactively in May, 2016 when the Social Security Administration collected Medicare Part B premiums for March through May. I do not see a mechanism for me to order the requested refund.

All income for MA programs is budgeted prospectively, meaning that it is based on anticipated income in a month. Handbook, App. 15.2.1. Social security is counted as unearned income in the month received. Handbook, App. 15.4.10. If a person reports reduced income that would result in a reduced premium or no premium, the effective date of the change is the month of the change or the month of the report, whichever is later. Handbook, App. 26.7.2.

When the county worker calculated the MAPP premium in February, she did so correctly. For me to go back and change the premiums retroactively the Department would have to allow for reconciling prospective income versus income actually received, but the Department does not have such a process. The closest item is found at the Handbook, App. 22.2.8.1, which provides that if a premium was calculated incorrectly a worker can re-determine the correct amount and issue a refund. There is nothing that allows re-determining correctly calculated premiums.

I can order the May, 2016 premium payment to be refunded. Petitioner's social security decreased in May and the change was reported that month. Under Handbook provision 26.7.2 the effective date of the change was May, and thus petitioner should have had no premium for that month.

CONCLUSIONS OF LAW

1. There is no mechanism to reconcile correctly determined MAPP premiums when retroactive social security changes are implemented.
2. Petitioner is entitled to a refund of his May, 2016 MAPP premium because his May social security was reduced sufficiently to erase the liability for a premium and reported within the month of May; Department policy provides that the effective date is the month of the change and/or report, whichever is later.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to take action to have the Department refund the \$75 May, 2016 MAPP premium to petitioner. The County shall take the action within 10 days of this decision. In all other respects the petition for review is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

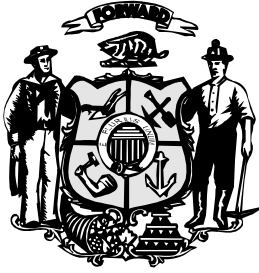
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 27th day of July, 2016

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



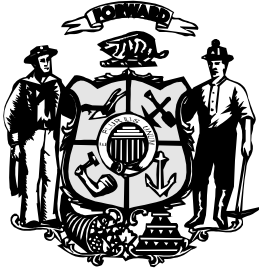
State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 26, 2016.

Jefferson County Department of Human Services
Division of Health Care Access and Accountability



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 27, 2016.

Jefferson County Department of Human Services
Division of Health Care Access and Accountability